

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED

AUG 31 2009

WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By _____
Deputy Clerk

BOBBY RAY,

Plaintiff,

v.

BETTY HARRIS and
BRUCE CORNIGHT,

Defendants.

No. CIV 09-077-RAW-SPS

OPINION AND ORDER
DENYING SECOND MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff has filed a second motion for appointment of counsel [Docket #26], alleging he has little knowledge of the court's rules and procedures. He claims his medical problems, along with the loss of his federal law book, are preventing him from moving forward in this case. If counsel is not appointed, he asks the court to send him six subpoena forms.

Plaintiff still bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)). His complaint concerns the alleged denial of meaningful access to the courts in his attempts to be granted a jury trial for a competency hearing. He admits he has a court-appointed attorney in his pending criminal matter, but asserts the attorney is ineffective. After reviewing the nature and complexity of plaintiff's claims and his ability to investigate and present his case, the court finds appointment of counsel still is not warranted. *See Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991); *see also Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995).

ACCORDINGLY, plaintiff's second motion for appointment of counsel [Docket #26] is DENIED. His alternative request for relief in the form of six subpoena forms is GRANTED, and the Court Clerk is directed to send the forms to plaintiff.

IT IS SO ORDERED this 31st day of August 2009.

A handwritten signature in cursive script, appearing to read "Ronald A. White", written in dark ink.

RONALD A. WHITE
UNITED STATES DISTRICT JUDGE